IN THE HIGH COURT FOR THE STATE OF TELANGANA AT HYDERABAD

MONDAY, THE SIXTH DAY OF MARCH
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HONOURABLE SMT. JUSTICE LALITHA KANNEGANTI

MOTOR ACCIDENT CIVIL MISCELLANEOUS APPEAL NO: 2608 OF 2006

Appeal under Section 173 of Motor Vehicles Act against the order and decree in O.P.No.169 of 2005 dated 10-08-2006 on the file of the Court of the Chairman Motor Accidents Claims Tribunal-cum- V Addl. District Judge (FTC) Ranga Reddy District at L.B.Nagar.

Between:

1. The Andhra Pradesh State Road Transport Corporation, Rep by its Managing Director The Managing Director, RTC Cross Roads, Mushirabad, Hyderabad.
2. Depot Manager, APSRTC, Nagarkurnool Bus Depot, Mahabubnagar District.

...APPELLANTS/RESPONDENTS

AND

1. Smt. C.Padma, W/o. late Parameshwar, aged about 22 years, Occ: Hosuewife.
2. Kum. C.Lahari, D/o. late Parameshwar, aged about one Year, Occ: Nil. [Being Minor, rep by her mother R1 herein]
   (Both are R/o. H.No.3-38, Nallavelly Village, Yacharam Mandal, Ranga Reddy District)
3. Smt. C.Sarojamma, W/o. Late Jagaiah (late), aged about 50 years, Occ: Nil, R/o. Manthati village, Nagarkurnool Mandal, Mahabubnagar District.

...RESPONDENT/RESPONDENT

Counsel for the Appellants: SRI V.T.M.PRASAD
Counsel for the Respondents: SRI POTTIGARI SRIDHAR REDDY

The Court made the following: JUDGMENT

HON'BLE SMT. JUSTICE LALITHA KANNEGANTI

M.A.C.M.A.No. 2608 of 2006

JUDGMENT:

This is an Appeal preferred by the RTC aggrieved by the Award dated 10.08.2006 whereby the learned Motor Accidents Claims Tribunal-cum-V Additional District Judge (FTC), Ranga Reddy District at L.B.Nagar had allowed partly O.P.No. 169 of 2005 and granted Rs.9,04,500/-for the death of deceased.

2. The claimants are wife and minor daughter of the deceased. They filed the above O.P. seeking compensation of Rs.12,00,000/-. The case of the claimants is that the deceased was an L.I.C. Agent-cum-private medical practitioner. On 16.10.2004, at about 3.00 p.m., while the deceased was going on his bike bearing No. AP 22 F 3715 along with his friend Balaswamy to his native place Nallavelly Village, near the bus stand at Nagarkurnool, the RTC bus bearing Registration No. AP 10 Z 4518 came from the bus depot in a rash and negligent manner and dashed the vehicle of the deceased, as a result, the deceased and his friend fell down and sustained grievous injuries. Immediately, the deceased was shifted to Government Hospital, Nagarkurnool and from there to Osmania General Hospital, Hyderabad, Yashoda Super Speciality Hospital, Hyderabad for better treatment. While undergoing treatment, the deceased succumbed to the injuries on 07.11.2004.

3. The respondent Corporation filed the counter affidavit denying the averments in the Claim Petition. It is stated that the RTC bus was proceeding from Nagarkurnool depot to bus station, on the way, the driver observed that another bus was coming towards bus stand, on seeing the said bus, the driver stopped the bus and allowed the other bus to go into the bus stand. In the meantime, one scooterist, who was going towards Achampet side came in a rash and negligent manner and dashed the front side portion of the stationed bus without following traffic rules. As a result, the scooterist fell down on the road and received injuries. It is stated that there was no rashness or negligence on the part of the bus driver and the accident occurred due to the rash and negligence of the deceased. It is stated that as it is contributory negligence, the Corporation is not liable to pay the compensation and the compensation claimed is excessive.

4. The claimants, in support of their case, examined P.Ws.1 to 3 and got marked Exs.A1 to A15. On behalf of the Corporation, R.W.1 was examined and no documents were marked. Ex.X1 certificate issued by LIC showing the particulars of commission was marked.

5. Heard Sri Thoom Srinivas, learned Standing Counsel for the RTC and Sri Pottigari Sreedhar Reddy, learned counsel for the claimants.

6. The Tribunal having considered the evidence of R.W.1 and the evidence of P.Ws.1 to 3 had come to the conclusion that the driver of the bus drove it in a rash and negligent manner and also considered Exs.A1 and A2 ie. FIR and the charge sheet and held that because of the rash and negligent driving of the driver of the bus, the accident occurred. As far as income is concerned, though it was claimed that the deceased was earning Rs.10,000/- in respect of which his pan card was also filed, the Tribunal had taken Rs.6,000/- as income. Learned Standing Counsel for the RTC submits that the Tribunal ought not to have fixed the income as Rs.6,000/-. The Hon'ble Apex Court in ***Ramachandrappa v. Manager, Royal Sundaram Alliance***[1], without there being any evidence, had taken the income as Rs.4,500/-. In this case, the evidence shows that the deceased was a private medical practitioner and LIC agent, the Tribunal taking into consideration the salary of the deceased as Rs.6,000/- is not excessive. Hence, this Court is not inclined to accept the contention of the learned counsel for the RTC. The multiplier applied by the Tribunal is appropriate multiplier and granting the amount of Rs.9,04,500/- for the death of LIC agent -cum- a medical practitioner cannot be considered as excessive. Hence, the Appeal of the RTC fails and the same is liable to be dismissed.

[1] (2011) 13 SCC 236

7. The Appeal of the RTC is accordingly, dismissed. No costs.

8. Pending miscellaneous petitions, if any, shall stand closed.

SD/- K.VENKAIAH
ASSISTANT REGISTRAR

//TRUE COPY//

GB
SECTION OFFICER

To

1. The Motor Accidents Claims Tribunal-cum- V Addl. District Judge (FTC), Ranga Reddy District at L.B.Nagar.
2. One CC to SRI V.T.M.PRASAD, Advocate [OPUC]
3. One CC to SRI POTTIGARI SRIDHAR REDDY, Advocate [OPUC]
4. Two CD Copies

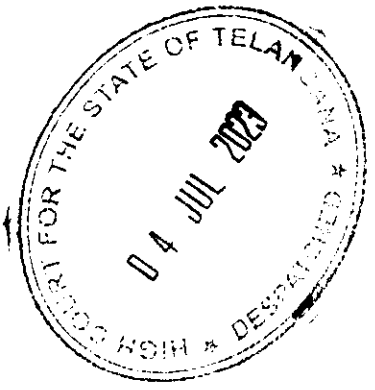
PSK.

HIGH COURT

DATED:06/03/2023

JUDGMENT

MACMA.No.2608 of 2006



DISMISSING THE MACMA WITHOUT COSTS.

(6) mac 516